

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**DAUN CHALLENGER BURNS**

**PLAINTIFF**

**v.**

**CAUSE NO. 1:10CV483-LG-RHW**

**MICHAEL J. ASTRUE**

**DEFENDANT**

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND  
RECOMMENDATION AND GRANTING DEFENDANT'S  
MOTION TO DISMISS**

**BEFORE THE COURT** is the Proposed Findings of Fact and Recommendation [17] entered by United States Magistrate Judge Robert H. Walker on May 16, 2012. Daun Challenger Burns alleges that the Social Security Administration withheld past-due benefits from him. Judge Walker recommends that Burns' Complaint should be dismissed for lack of subject matter jurisdiction, because he failed to exhaust his administrative remedies. He also recommends that the Commissioner's Motion to Dismiss [12] should be granted and Burns' Motion for Judgment [15] should be denied on those same grounds.

Burns was advised that he must file any objections to Judge Walker's recommendations within fourteen days of being served with a copy of the Proposed Findings of Fact and Recommendation, but he has not filed an objection.

Where no party has objected to the Magistrate Judge's proposed findings of fact and recommendations, the Court need not conduct a *de novo* review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings and recommendations to

which objection is made.”). In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass’n*, 79 F.3d 1415, 1420 (5th Cir. 1996).

Having conducted the required review, the Court finds that Judge Walker’s Proposed Findings of Fact and Recommendation is neither clearly erroneous nor contrary to law. Therefore, the Court finds that the Proposed Findings of Fact and Recommendation entered by Judge Walker should be adopted as the opinion of this Court.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the Proposed Findings of Fact and Recommendation [17] entered by United States Magistrate Judge Robert H. Walker on May 16, 2012, is **ADOPTED** as the opinion of this Court.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that the Commissioner’s Motion to Dismiss [12] is **GRANTED** and Burns’ Motion for Judgment [15] is **DENIED**. This lawsuit is hereby **DISMISSED FOR LACK OF SUBJECT MATTER JURISDICTION**.

**SO ORDERED AND ADJUDGED** this the 12<sup>th</sup> day of June, 2012.

*s/ Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
CHIEF U.S. DISTRICT JUDGE